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OFFICE OF PETITIONS

In re Application of :
Mirlinda BIBA et al. :
Application No. 10/526,782 : **DECISION ON PETITION**
Filed: March 04, 2005 :
Attorney Docket No. 21181P :

This is a decision on the renewed petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment, filed April 16, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before September 26, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 26, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,510.00 and the publication fee of \$300.00, (2) the petition fee of \$1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Since the \$1,620.00 petition fee was submitted with the petition on October 23, 2008, no fee is due. The petition fee submitted with the petition filed April 16, 2009 is unnecessary and will be credited to petitioner's deposit account.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 5317 (October

10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

A handwritten signature in cursive script, reading "Michelle R. Eason".

Michelle R. Eason
Paralegal Specialist
Office of Petitions